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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	78093634
Applicant	Gungner, David J.
Applied for Mark	MISSING A RIB, XY INSTEAD OF XX
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Submission	Reply Brief
Attachments	TTAB_USPTO_2007-April-19.pdf (9 pages)(167515 bytes)
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Date	04/19/2007

United States Patent and Trademark Office (USPTO) (www.uspto.gov)

Trademark Trial and Appeal Board

Post Office Area 1451

stateless ZIP Code 22313-1451

gungner, david j. ,) SERIAL NO. 78093634
)
 applicant,) MISSING A RIB, XY INSTEAD OF XX
)
 regarding) SERIAL NO. 78134559
)
 United States Patent and) REMOVE A RIB, XY LESSER THAN XX
)
 Trademark Office,)
)
 Trademark Trial and Appeal Board.) APPLICANT'S REPLY LEGAL BRIEF
)

david gungner, "individual inventor", requests issuance of
"certificate of registration" as defined with United States Code Title 15
Section 1051(d)1 regarding SERIAL NO. 78093634 "MISSING A RIB, XY
INSTEAD OF XX" (United States Patent and Trademark Office, Tuesday
July 15th 2003 "notice of allowance", United States Code Title 15
Section 1063(b)2) and SERIAL NO. 78134559 "REMOVE A RIB, XY LESSER THAN XX"
(United States Patent and Trademark Office, Tuesday March 11th 2003,
"notice of allowance", United States Code Title 15 Section 1063(b)2).

INDEX OF EXHIBITS

EXHIBIT 001: USPTO International Trademark Protection (enpreent 8 of 9).

EXHIBIT 002: USPTO "one-size-fits-all" Service Mark / Trademark

(enpreent 9 of 9).

FACTS

Summary of the Facts

1. The Constitution of the United States Article I, Section 8, Clause 8 grants Congress the authority power {regarding} "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

2. United States Code Title 15 Section 1070 provides that "An appeal may be taken to the Trademark Trial and Appeal Board from any final decision of the examiner in charge of the registration of marks upon the {monetary} payment of the prescribed {monetary} fee."

3. United States Patent and Trademark Office, Trademark Trial and Appeal Board Manual {Documentation} of Procedure Section 102.03 General Description of Board Proceedings defines that "An ex parte appeal, being appellate in nature, is a much simpler and shorter {timeInterval} procedure, involving only the filing of {legal} briefs by {viaVirtueOf} the applicant and examining attorney, and, if requested by {viaVirtueOf} the applicant, an oral hearing {verbal gathering}."

4. The plaintiff is of continuing "interest in the case." (United States Patent and Trademark Office, Trademark Trial and Appeal Board Manual {Documentation} of Procedure Section 801.02(a) Plaintiff's Main {Legal} Brief).

5. United States Patent and Trademark Office, Trademark Trial and Appeal Board "Notice of Appeal" / "Ex Parte Appeal" was implemented during Sunday January 16th 2005 timeInterval regarding SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX" and during Sunday July 25th 2004 timeInterval regarding SERIAL NO. 78134559 "REMOVE A RIB, XY LESSER THAN XX",

1 respectively.

2 6. United States Code Title 15 Section 1063(b)2 provides that when
3 the "applicant applied for registration" during Thursday November 15th 2001
4 timeInterval regarding SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD
5 OF XX" that the issuance accrues regarding a United States Patent and
6 Trademark Office, Tuesday July 15th 2003 "notice of allowance" of
7 "GOODS/SERVICES BY {ViaVirtueOf} INTERNATIONAL CLASS" aggregation 016.

8 7. United States Code Title 15 Section 1063(b)2 provides that when
9 the "applicant applied for registration" during Tuesday June 11th 2002
10 timeInterval regarding SERIAL NO. 78134559 "REMOVE A RIB, XY LESSER
11 THAN XX" that the issuance accrues regarding a United States Patent
12 and Trademark Office, Tuesday March 11th 2003 "notice of allowance" of
13 "GOODS/SERVICES BY {ViaVirtueOf} INTERNATIONAL CLASS" aggregation 042.

14 8. SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"
15 "statement of use" United States Code Title 15 Section 1051(d)1 starting
16 Thursday January 15th 2004 and SERIAL NO. enumeration 78134559
17 "REMOVE A RIB, XY LESSER THAN XX" "statement of use" United States Code
18 Title 15 Section 1051(d)1 starting Thursday September 11th 2003 included
19 "specimens or facsimiles of the mark as used in commerce" with both
20 unicode U+00AE ® and unicode U+2122 ™ (in unicode numeric ordering)
21 describing how SERIAL NO. enumeration 78093634 "MISSING A RIB, XY
22 INSTEAD OF XX" and SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY
23 LESSER THAN XX" exist utilized in the context of "commerce" (United
24 States Code Title 15 Section 1051(d)1), "GOODS/SERVICES BY {ViaVirtueOf}
25 INTERNATIONAL CLASS" aggregation 016 and "GOODS/SERVICES BY {ViaVirtueOf}

1 INTERNATIONAL CLASS" aggregation 042, respectively.

2 9. United States Code Title 15 Section 1070 provides that "An appeal
3 may be taken to the Trademark Trial and Appeal Board from any final
4 decision of the examiner in charge of the registration of marks upon the
5 {monetary} payment of the prescribed {monetary} fee." of USD\$100.00
6 (monetary fee payment provided regarding SERIAL NO. 78093634 " MISSING A
7 RIB, XY INSTEAD OF XX" during January 2005 timeInterval). Title 37 Code
8 Federal Regulations Section 2.122(b)(1) considers the "file" of SERIAL NO.
9 78093634 "MISSING A RIB, XY INSTEAD OF XX" (United States Patent and
10 Trademark Office, Tuesday July 15th 2003, "notice of allowance", United
11 States Code Title 15 Section 1063(b)2) as "part of the record of the
12 proceeding without any action by {viaVirtueOf} the parties and reference
13 may be made to {regarding} the file for {regarding} any relevant and competent
14 purpose." The existing SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX"
15 "file" is sufficient regarding applicant's legal appeal brief (applicant's
16 legal brief) requirement of Friday March 17th 2005. With the context of
17 United States Patent and Trademark Office (USPTO) Internet information
18 [EXHIBIT 001] (Friday June 2nd 2006 timeInterval) (enpreent 8 of 9)
19 and United States Patent and Trademark Office (USPTO) Internet information
20 [EXHIBIT 002] (Friday June 2nd 2006 timeInterval) (enpreent 9 of 9),
21 requesting a United States Patent and Trademark Office, Trademark Trial
22 and Appeal Board "appeal" (United States Code Title 15 Section 1070, Title 37
23 Code Federal Regulations Section 2.122(b)(1)) "certificate of registration"
24 (United States Code Title 15 Section 1051(d)1) regarding SERIAL NO. 78093634
25 "MISSING A RIB, XY INSTEAD OF XX".

1 10. SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"
2 "file" (Title 37 Code Federal Regulations Section 2.122(b)(1)) "specimen
3 of record" "statement of use" (United States Code Title 15 Section 1051(d)1
4 starting Thursday January 15th 2004 with concatenations of Saturday
5 March 27th 2004 / Sunday March 28th 2004, Wednesday April 28th 2004,
6 Friday May 28th 2004 and Monday June 28th 2004 timeInterval) illustrates
7 specific, functioning facsimile "container" 'encapsulization' (Trademark
8 Manual {Documentation} of Examination Procedures Section 904.04)
9 utilizations "as goods that travel in commerce."

10
11
12 **"CERTIFICATE OF REGISTRATION"**

13 11. United States Code Title 15 Section 1051(d)1 describes that
14 with the documented, existing, provided accurate specifics regarding
15 SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"
16 "statement of use" United States Code Title 15 Section 1051(d)1 and
17 SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX"
18 "statement of use" United States Code Title 15 Section 1051(d)1, both
19 SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX" and
20 SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX"
21 should receive United States Patent and Trademark Office "certificate
22 of registration" United States Code Title 15 Section 1051(d)1.

23 12. "notice of allowance" of "GOODS/SERVICES BY {ViaVirtueOf}
24 INTERNATIONAL CLASS" isn't International Trademark Protection and is
25 just United States geographic area region Trademark Protection

1 [EXHIBIT 001] (enpreent 8 of 9).

2 13. SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"
3 and SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX"
4 exist as trademark applications regarding "registration" (United States
5 Code Title 15 Section 1063(b)2). "Service Mark" construct interleaving
6 is just that of a United States Patent and Trademark Office "trademark"

7 [EXHIBIT 002] (enpreent 9 of 9).

8 14. If United States Patent and Trademark Office "certificate of
9 registration" (United States Code Title 15 Section 1051(d)1) isn't
10 implementable, at this timeInterval, am requesting a 100% monetary refund
11 regarding SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"
12 and SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX"
13 United States Patent and Trademark Office electronic application filings
14 (United States Patent and Trademark Office, Trademark Trial and Appeal
15 Board Manual {Documentation} of Procedure Section 119.02 Papers and
16 Fees---Ex Parte Cases).

I inatwith certify that this correspondence is Internet electronic filing regarding the United States Patent and Trademark Office on the earthCalendarDate Thursday, April 19th 2007. "The undersigned being warned that willful false statements and the like are punishable by {viaVirtueOf} fine or imprisonment, or both, under 18 United States Code 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be {exist} true." (Title 37 Code Federal Regulations Section 2.20, Title 37 Code Federal Regulations Section 2.59(a), Trademark Manual {Documentation} of Examination Procedures Section 904.09).

wholeheartedly, david gungner (Thursday, April 19th 2007).

"individual inventor"

SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"

_____/0a9h5a3wh9topev5i8sw/____ (Signature)

SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX"

_____/6qrgzfpmn8nsv6l63wi5/____ (Signature)

___david gungner_,__ h_sapien ___ (Print or Type Name and Position)

_____04/19/2007_____ (earthCalendarDate MM/DD/YYYY)

missing a rib, XY instead of XX [™] GenesIs 2:20-23 (GenesIs 22:10)

remove a rib, XY lesser than XX [™] GenesIs 2:20-23

1 **EXHIBIT 001: USPTO International Trademark Protection.**

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4 **Trademark Protection**

5 **How can I insure that my patent or trademark is protected internationally?**

6 U.S. patents only protect your invention in the United States. To protect your
7 invention internationally you must file applications in each country where you seek
8 protection. The same goes for trademarks. International filings can be quite
9 complicated you may want to consult with a registered patent attorney/agent.

10 United States Patent and Trademark Office (USPTO) Internet information:
11 <http://www.uspto.gov/web/offices/com/iip/transcriptst z.htm> .

12 Last Modified: 06/02/2006 07:47:10

13 **"USPTO Expert2"** eResponse from
14 actual edited transcript of Tuesday, December 7, 2004
15 On Line for Independent Inventors (07DEC2004) .

1 **EXHIBIT 002: USPTO "one-size-fits-all" Service Mark / Trademark.**

2

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4 **Service Mark**

5 **I'm interested in registering a Service Mark but noticed there are two types**
6 **of applications. What are the differences?**

7 There is only one application for either a service mark or a trademark in the
8 electronic trademark filing system at the USPTO website. You are encouraged to
9 file electronically if possible. If you are looking at paper forms, the information
10 required for a trademark and a service mark is basically the same - only the
11 terminology differs slightly. If you are filing a paper application, you should file the
12 service mark application if you are applying for a service mark just to keep things
13 from getting confusing. But it's best to use the "one-size-fits-all" application for
14 filing either a trademark or service mark that's available on line.

15 United States Patent and Trademark Office (USPTO) Internet information:
16 <http://www.uspto.gov/web/offices/com/iip/transcriptsns.htm> .

17 Last Modified: 06/02/2006 07:47:05

18 **"USPTO Expert2"** eResponse from
19 actual edited transcript of Thursday, June 10, 2004
20 On Line for Independent Inventors (10JUN2004) .

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